IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3661 OF 1992

The Secretary, State Transport Authority, Bombay ..Petitioners

versus

M/s. President Motors ..Respondents

Mr. A. P. Vanarase, AGP for the Petitioners.

None for the Respondents.

CORAM : D. G. DESHPANDE, J.

DATE : 18TH SEPTEMBER, 2006

ORAL ORDER :

1. Heard learned AGP for the petitioners - State. Respondents served, nobody is present for them.

2. Exhibit ’1’ is the order that was first in order of time. It was in favour of the Respondent i.e. President Motors, dated 25.10.1991. In that order the Secretary State Road Transport Tribunal, has informed the Respondent No.1 that when the papers of MH-01-G-5635 motor vehicle were examined,

it was found that vehicle's registration was dated 4.8.1989. It was more than two years old and therefore under Section 82 sub section 2(a) of the Central Motor Vehicle Rules of 1989, the vehicle should not be more than 2 years old and therefore no tourist permit can be given. This order was challenged by the Respondent No.1 before the State Road Transport Appellate Tribunal vide Appeal No. 241 of 1991. That Appeal was allowed and therefore this writ petition. While allowing the Appeal, the Tribunal appears to have lost sight of first paragraph of the impugned order dated 25.10.1991, wherein it is specifically mentioned that the original registration was dated 4.8.1989 and on the date when the permit was applied for using the vehicle as tourist vehicle, two years period had expired.

3. The Tribunal has relied upon the Judgment reported in **AIR 1975 Supreme Court 1805 Kundur Rudrappa vs. Mysore Revenue Appellate Tribunal**, wherein the Supreme Court in the background of the issues involved, observed **"...Issuance of the permit is only ministerial act..."** These words have been interpreted by the Tribunal to arrive at a

conclusion that whatever time is spent in this ministerial act, cannot come in the way of the persons like respondents who apply for permit, that interpretation is wrong. The Tribunal tried to grant some concession to those persons who apply for such permits by interpreting the aforesaid Rule liberally and excluding the period required for processing of the papers at different stages. That approach does not appear to be proper because the Rule specifically provides that tourist permission cannot be granted to vehicles who are older than two years i.e. period of two years has elapsed from the date of original registration. Then this period cannot be extended by granting concession to the period taken for processing the application at various stages. Approach of the Tribunal is not proper. It is contradictory to the provisions of Rules and therefore this Petition is allowed in terms of prayer clause (a). Rule made absolute accordingly. Impugned judgment and order is set aside and quashed. No order as to costs.

(D.G. DESHPANDE, J.)